A

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P.No.5773 of 1987
Date of decision: 21.7.2006

Messers Aggarwal Wine Traders, Karnal

... Petitioner
Through: Nemo

v.

Financial Commissioner (Revenue) Haryana and others

...Respondents
Through:
Ms.Ritu Bahri, Deputy Advocate General, Haryana.

PUNJAB & HARYANA HIGH COURT

CORAM:

Hon'ble Mr.Justice Rajesh Bindal

1.Whether Reporters of local papers maybe allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest?

Rajesh Bindal, J. (Oral)

This is a petition challenging show cause notice dated 5.12.1983 (Annexure P.1), whereby the petitioner was called upon to deposit the evaded amount of excise duty on the liquor removed from its bonded warehouse and also to show cause as to why the licence granted to it be not cancelled under Section 36 (b) of the Punjab Excise Act, 1914 (for short, 'the Act') and security forfeited for failure to deposit the amount of duty payable to the State. Pending investigation, the licence of the petitioner was suspended.

As is evident from the order, passed by the Excise and Taxation Commissioner, Haryana, exercising the powers of the Financial Commissioner under the Act (respondent No.2), licence of the petitioner was cancelled under Section 36(b) of the Act and the security was forfeited. It is also evident from the order that on an application moved by the petitioner, the offence was compounded under Section 80(2) of the Act and the request of the petitioner was accepted. It was directed therein that the petitioner could deposit a sum of Rs. 48,600/- as evaded excise duty within 10 days of the issuance of order along with sales tax on the amount of evaded excise duty. On compliance of the said direction,

cancellation of the licence was ordered to be revoked.

Against the order of imposition of penalty and also demand of sales tax and penalty on the evaded excise duty, the petitioner went in appeal before the Financial Commissioner (Revenue), exercising the powers of Appellate Authority under Section 15(7) of the Act. The appeal was dismissed by the Appellate Authority by referring to an earlier order passed by it in E.A.Nos.43 and 44 of 1983-84 M/s Wine Centre Hissar v. The State of Haryana, where also the offence was got compounded by the defaulter and thereafter the appeal was filed. However, the plea of the petitioner for demand of sales tax and penalty on the evaded amount of excise duty was accepted and demand to that effect was set aside.

In the present appeal, the petitioner has challenged the order passed by the Financial Commissioner (Revenue).

In C.W.P.No.3299 of 1986 M/s Wine Centre BWH-2 Licensee, Hissar v. State of Haryana and others, a similar challenge was made by the petitioner therein, where also he got the offence compounded under Section 80(2) of the Act and on payment of evaded excise duty, cancellation of licence was revoked. The petitioner challenged that order, which was negated by this Court vide order dated 12.8.1986.

For the reasons stated therein and also the fact that after the petitioner got the offence compounded, there is no ground to challenge the order passed thereon any further.

Accordingly, the writ petition is dismissed.

(**Rajesh Bindal**)
Judge

21.7.2006
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PUNJAB & HARYANA HIGH COURT